LIBRARY
SUPREME COURT, U.S.

Office - Supreme Court, U. S.
FILED
NOV 3 1950
CHARLES ELMORE CROPLEY

No. 209

In the Supreme Court of the United States

OCTOBER TERM, 1950

EMICH MOTORS CORPORATION AND U. S. ACCEPTANCE CORPORATION, PETITIONERS

v.

GENERAL MOTORS CORPORATION AND GENERAL MOTORS ACCEPTANCE CORPORATION

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES AS AMICUS CURIAE

In the Supreme Court of the United States

OCTOBER TERM, 1950

No. 209

EMICH MOTORS CORPORATION AND U. S. ACCEPTANCE CORPORATION, PETITIONERS

v.

GENERAL MOTORS CORPORATION AND GENERAL MOTORS ACCEPTANCE CORPORATION

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES AS AMICUS CURIAE

The United States, as *amicus curiae,* has previously submitted a memorandum in support of the petition for certiorari because the decision below was considered to present questions of substantial public importance in the effective enforcement of the antitrust laws which warranted review by this Court. That memorandum dealt with the question of primary interest to the Government, namely, the precise scope and application of Section 5 of the Clayton Act. The reply filed by respondents in answer to the Government's memorandum appeared to suggest that, since the memorandum concentrated on the Section 5 ques-

913617—50

tion, the Government was implying that the other questions presented in the petition for certiorari had been correctly decided by the Court of Appeals and did not warrant review. Counsel for petitioners have expressed the fear that the Government's failure to respond to respondents' reply may have been construed as a tacit acquiescence in the construction placed by respondents on the Government's memorandum.

It is the purpose of this supplemental memorandum to dispel any possible misunderstanding as to the position taken by the Government as *amicus curiae* in this case. As stated in its previous memorandum (p. 6), the Government has an interest in making the treble-damage remedy available in a practical as well as legal sense to private parties injured by violations of the antitrust laws. The practical effect of the decision below, viewed realistically, is to place substantial, if not insuperable, burdens upon private suitors allegedly damaged by conspiracies in restraint of trade. In view of the fact that the Court has decided to review the principal question presented as to the construction of Section 5 of the Clayton Act, and in view of the relationship of that issue in the context of this case to the other issues decided by the Court of Appeals, it would appear desirable that the Court have before it an entire picture of all the related phases of the case. Authoritative disposition of the subsidiary ques-

tions raised by petitioners may have important bearing on the practical benefits intended by Congress to be made available to private parties by Section 5. Accordingly, it is submitted that the limitations upon the scope of review imposed by the Court's order of October 9, 1950, should be removed.

Respectfully submitted.

PHILIP B. PERLMAN,
Solicitor General.

NOVEMBER 1950.

U. S. GOVERNMENT PRINTING OFFICE: 1950